(1)

PROCEEDINGS AND ORDERS

CASE NBR: [91106392] CFH STATUS: [PENDING CONFERENCE]
SHORT TITLE: [Head, Joseph M.]
VERSUS [Thornburg, Atty. Gen. of NC] DATE DOCKETED: [111291]

	DATE	NOTE	PROCEEDINGS & ORDERS
1	Nov 12 1991	R	Petition for writ of certiorari and motion for leave to proceed in forma pauperis filed.
5	Nov 12 1991	D	Motion of petitioner for leave to proceed in forma pauperis filed.
4	Jan 30 1992		DISTRIBUTED. February 21, 1992
8	Feb 24 1992		REDISTRIBUTED. February 28, 1992
9	Mar 2 1992		Motion of petitioner for leave to proceed in forma pauperis DENIED. pursuant to Rule 39.8. Petitioner is allowed until March 23, 1992, within which to pay the docketing fee required by Rule 38 and to submit a petition in compliance with Rule 33 of the Rules of this Court. Dissenting opinion by Justice Stevens with whom Justice Blackmun joins. (Detached opinion.)

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

ORIGINAL

In The Supreme Court of The United States

November Term 1991

Number 91-6392

RECEIVED
NOV 12
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Joseph Marion Head Junior

VS

As Apears of Court Records

Motion For Leave To Proceed In Forma Pauperis

The petitioner Joseph Marion Head Junior, asks leave to file the attached petition for a writ of Cetiorari without prepayment of cost and to proceed in forma pauperis. Petitioner has previously been granted leave to so proceed in U.S.D.Ct. W.D.N.C. and 4th. Cir. Ct. App.s. Petitioner's affidavit in support of this motion is attached hereto.

/s/ Joseph Marion Head Junior

7 November 1991

42 pp

FILED

AUG - 6 1991

ASHEVILLE, N. C.
U. S. DISTRICT COURT
WESTERN DISTRICT OF N.C.

THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION
SH-C-91-133

In re:

JOSEPH MARION HEAD, JR.

JUDGMENT

THIS MATTER having come before the court upon the court's own Motion to Dismiss as frivolous the claims of petitioner, Joseph Marion Head, Jr., and the court having found that petitioner has failed to allege cognizable causes of action or grounds for issuance of a writ of *habeas corpus* or for relief under applicable civil rights statutes, as shown by a Memorandum of Decision entered by the court simultaneously herewith;

IT IS ORDERED, ADJUDGED, AND DECREED that the relief sought by petitioner in his 26 paperwritings is **DENIED**, and the action is hereby **SUMMARILY DISMISSED.**

The Clerk of Court is directed to send copies of the Memorandum of Decision and this Judgment to the petitioner and to the Attorney General of North Carolina.

This 3rd day of August, 1991.

Woodrow W. Jones

WOODROW W. JONES
UNITED STATES SENIOR DISTRICT JUDGE

#3

In The Supreme Court of The United States

November Term 1991

Number _____

Joseph Marion Head Junior

VS

_____

As Apears Of Court Records

Affidavit In Support of Motion For Leave To Proceed In Forma Pauperis

I Joseph Marion Head Junior being first duly sworn, depose and say that I am the Petitioner in the above entitled case, that in support of my motion for leave to proceed in forma pauperis, I state that because of my proverty I am unable to pay the cost of this case or to give security Therefor and that I believe I am entitled to redress.

I futher swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of proceeding in this court are true.

(1) Are you presently employed Yes Yes No _____

(a) If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.
No pay; institutional job, N.C. Dep. Corrections (P.C.I.) 977 Camp Road, Salisbury, N.C. 28144.

(b) If your answer is no, state the date of your last employment and amount of the salary or wages per month which you received.

(2) Have you received within the past twelve months any income from a business, profession, or other form of self employment, or in the form of rent payments, interest, dividends, or other sources? Yes ____ No NO.

(a) If your answer is yes, describe each source of income and state the amount received from each during the past twelve months.

(3) Do you own any cash or checking or savings account? Yes ____ no NO.

(a) If the answer is yes, state the total value of the items owned.

(4) Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?
Yes ____ No No.

(a) If the answer is yes, describe the property

and state its approximate value.

(5) List the persons who are depended upon you for support and state your relationship to those persons. NONE.

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury.

S/ Joseph Marion Head Junior
7 November 1991

Sworn And Subscribed To Befor Me
Notary Publice Linda Leslie Wilt
On this the 7 day of November 1991
My Commission Exp. On 19 day of Feburry 1991

ORIGINAL

No. 91-6392

In The Supreme Court of The United States

November Term 1991

Joseph Marion Head Junior, Petitioner

VS

_____, Respondent

As apears of Court Records

Petition For Writ of Certiorari
To The United States Court of Appeals
For The Fourth Circuit

Petition For Writ of Certiorari

Name, Joseph Marion Head Junior
Address _____

_____

Phone No. _____

Table of Contents

Petition for writ of Certiorari to the United States Court of Appeals For the fourth circuit

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Statement of The Case
Reasons For Granting The Writ
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Appendix A, Opinion of The Court of Appeals
" B, Judgement of U.S. D.Ct. W.D.N.C

Table of Authorities Cited

cases

Petitioner cites no authorities because he is an incarcerated person and dose not have access to law books, resords ets. to do so. Futher is a laymen at law none trained in law and is an indigent person and the North Carolina Department of Correction Attorneys will not represent petitioner and petitioner is forced to represent his own self.

cases

other

Questions Presented

(1) Did the lower courts deny any relief entitled? If so, What Relief?
(2) Did the lower courts fail to consider importan grounds for relief? If so, which?
(3) Did the lower courts fail to consider any facts? If so, which facts?
(4) Did the lower courts misaply the laws? If so, which laws?
(5) What laws should have been aplied in the courts below.
(6) Are there any reason why the lower courts judgments and orders and opinion wrong? If so what reasons?
(7) What relief is and was petitioner entitled and why?
(8) Did the lower courts fail to conduct evidentry hearing entitled?
(9) Did the lower courts fail to appoint attorneys?
(10) Did the lower courts fail to review state court records? If so, which records?
(11) Was and is petitioner forced to repaesent his own self in State and Federal Courts? If so, why?

No. _____

In The Supreme Court of The United States
November Term 1991

Joseph Marion Head Junior, Petitioner
V S
_____, Respondent
As Apears of Court Records

Petition For Writ of Certiorari To The
United States Court of Appeals
For The Fourth Circuit

Petitioner Joseph Marion Head Junior, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States court of appeals and the court below denying relief etc. as apears of court records.

Opinions Below

The opinion of the fourth circuit court of appeals is reported as, as apears of court records No. 91-7203 In Re Head, CA-91-133-SH, U.S.D.Ct. W.D.N.C..

Jurisdiction

The court of appeals opinion was filed or dated on October 30, 1991. A petition for rehearing was not filed because petitioner dose not know how to write said petition and is forced to proceed pro se. The Court's jurisdiction is invoked under title 28 U.S.C. § 1254(1) and such other law as aplies hereto.

Constitutional And Statutory Provisions Involved

As apears and related herein and court records.

Statement of The Case

The U.S.D.C. W.D.N.C. had jurisdiction pursuant to title, as apears and related of court records. See all records relating to CA-91-133 SH and 91-7203 in proper order of same to enclude all state court records of and relating to 74CR 2403 74CR2403A from Rutherford County N.C.. Petitioner dose not have a copy of all said records and can not pay cost for same because of his indigence.

Reasons For Granting The Writ

(1) To grant a review authorized by law etc..

(2) To exercise this court's power of supervision.

(3) For any and all reasons of this court.

(4) To grant relief entitled, authorized, etc..

(5) For any other reason presented.

(6) For any other reason why the writ should be granted as known by this court.

Conclusion

For the reasons set forth above but not limited thereto a writ of certiorari should issue to review the judgment and opinion of the courts below.

Dated 7 day of November 1991.

Respectfully submitted,

/S/ Joseph Marion Headjunior
Petitioner Pro Se
7 November 1991

FILED

AUG - 6 1991

ASHEVILLE, N. C.
U. S. DISTRICT COURT
WESTERN DISTRICT OF N.C.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION
SH-C-91- 133

In re:

JOSEPH MARION HEAD, JR.

MEMORANDUM OF DECISION

THIS MATTER is before the court based on 26 paperwritings submitted by Joseph Marion Head, Jr., received by the court between January 2, 1991, and June 28, 1991. Having carefully reviewed each paperwriting, the court concludes that each is frivolous, lacks substance, and merits no relief. Further, the court concludes that the paperwritings are not presented in good faith. In case numbered A-C-85-179, this court concluded:

> Head has been allowed to file *in forma pauperis* numerous civil rights actions in this court attacking his convictions in the Superior Court of Rutherford County. Those actions sought financial relief for alleged violations of his civil rights and all were summarily dismissed as frivolous. The court finds that Head's conduct of flooding this court with frivolous petitions and motions constitutes harassment of the court and that he should cease such activity. Any future petitions received from Head will be carefully reviewed by the court. He is advised, however, that unless they are made in good faith and contain some substance, they will accumulate with others he sends and summarily be dismissed as frivolous. See Boyce v. Alizaduh, 595 F.2d 948 (4th Cir. 1979).

This court's judgment in A-C-85-179 was appealed by Head and affirmed by the Court of Appeals for the Fourth Circuit on August 7, 1985 (No. 85-6335).

Many of Head's 26 paperwritings are incoherent and in one instance the pleading is illegible (the document appears to have been written with a light charcoal pencil). In several of the paperwritings Head seeks various categories of relief, including

vindication of rights secured under civil rights statutes as well as *habeas corpus* relief. The allegations, however, are conclusory, furnish no basis for relief, and are patently frivolous.

The habeas corpus issues Head raises in these paperwritings about his convictions have been ruled on by the court in case numbered A-C-85-8 and are successive, thereby violating Rule 9(b) of the Rules Governing Section 2254 Cases. Even if the court were to consider Head's letters as a petition under Section 2254, the petition would have to be dismissed under Rule 9(b) as an abuse of the writ without further notice. Head asserts no new facts which could form the basis of an attack on the legality of his sentence. See United States v. Oliver, 865 F.2d 600 (4th Cir. 1989).[1] See also Swain v. Pressley, 430 U.S. 372 (1977); Blackledge v. Allison, 431 U.S. 63, 74 n.4 (1977); and Fill v. United States, 368 U.S. 424, 427 (1962).

In A-C-85-8, in which this court ruled on several *habeas corpus* claims as to which Head had exhausted his state remedies, it is shown that he was convicted in the Superior Court of Rutherford County, North Carolina, in cases numbered 74-CR-2403 and 2403A of second-degree rape and crime against nature, respectively. In A-C-85-8, in which Head attacked his conviction in 74-CR-2403, the court carefully considered on the merits his exhausted claims. This court's judgment in that case was

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[1] Notice is not required prior to dismissal of a Section 2254 motion as an abuse of writ.

affirmed by t. Court of Appeals for the Fourth Circuit on April 7, 1986 (85-6358).

In numerous prior orders, the court has attempted to advise Head on procedures for bringing claims properly before the court. Head, however, fails to follow such instructions, and he continues to file frivolous paperwritings such as the 26 to which this Memorandum of Decision and accompanying Judgment apply. Accordingly, pursuant to the Judgment in A-C-85-179 filed April 18, 1985, this court will allow the 26 paperwritings to be filed *in forma pauperis under one civil case number*, but will summarily dismiss them as being frivolous. Boyce v. Alizaduh, supra.

It should be noted that between April 18, 1985, and the date of this Memorandum of Decision and separate Judgment, Head has filed 522 petitions, applications, and complaints other than the 26 paperwritings covered herein. All of the proceedings have been dismissed by this court without granting any relief. The record indicates that, as to 355 of his paperwritings, Head has appealed the dismissals entered by this court and the Court of Appeals for the Fourth Circuit has affirmed those dismissals.

The Clerk of Court is instructed to file the 26 paperwritings in forma pauperis under a single case number. By a separate judgment filed simultaneously herewith, the undersigned will summarily dismiss Head's 26 paperwritings as frivolous.

This 3rd. day of August, 1991.

Woodrow W. Jones

WOODROW W. JONES
UNITED STATES SENIOR DISTRICT JUDGE

8. The Court will not appoint counsel or schedule an appeal for oral argument unless it concludes, after having reviewed the case, that the appeal cannot be decided on the basis of the informal briefs and the record. Therefore, it is unnecessary to request the appointment of counsel or oral argument.

9. Appellants may, but need not, file a docketing statement within 10 days of filing of the notice of appeal. The form and instructions should already have been provided to appellant by the district court.

JOHN M. GREACEN
CLERK

Copies to:

Joseph Marion Head Jr.
PIEDMONT CORRECTIONAL CENTER
977 Camp Road
Salisbury, NC 28144

Jacob Leonard Safron, Esq. (info. only)
OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA
P. O. Box 629
Raleigh, NC 27602

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

IN RE: JOSEPH MARION HEAD, JR.,
Plaintiff-Appellant.

No. 91-7203

Appeal from the United States District Court
for the Western District of North Carolina, at Shelby.
Woodrow Wilson Jones, Senior District Judge.
(CA-91-133-SH)

Submitted: September 30, 1991

Decided: October 25, 1991

Before HALL and PHILLIPS, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Affirmed in part and dismissed in part by unpublished per curiam opinion.

COUNSEL

Joseph Marion Head, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit. See I.O.P. 36.5 and 36.6.

OPINION

PER CURIAM:

Joseph Marion Head appeals from the district court's order denying relief under 42 U.S.C. § 1983 and 28 U.S.C. § 2254. Our review of the record and the district court's opinion discloses that this appeal is without merit for the reasons stated by the district court. *In Re: Head*, No. CA-91-133-SH (W.D.N.C. Aug. 6, 1991). Accordingly, we affirm the denial of relief under section 1983 and dismiss the appeal from the denial of habeas relief. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process. A certificate of probable cause to appeal is denied.

AFFIRMED IN PART, DISMISSED IN PART

91-6392

In The Supreme Court of The United States

November Term 1991

Joseph Marion Head Junior

VS

RECEIVED
NOV 12 1991
OFFICE OF THE CLERK
SUPREME COURT, U.S.

As Apears of Court Records

Proof of Service

I Joseph Marion Head Junior, do swear or declare that on This date _____, 1991 pursuant to Supreme Court Rules, I have served the attached Motion for leave to proceed in forma pauperis and petition for writ of certiorari on each party to the above proceeding or that party's counsel, and on ever other person required to be served by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first class postage prepaid.

The Name And Adabress of Those Served Are As Follows

Solicitor General, Department of Justice, Washington, D.C. 20530.

N.C. Attorney General, Department of Justice

P.O. Box 629, Raleigh, N.C.

/s/ Joseph Marion Head Junior
On 7 day of November 1991
977 Camp Road
Salisbury
North Carolina, 28144

Sworn And Subscribed To Before Me
Notary Public Sandra Leslie White
On 7 day of November 1991
My Commission Exp. 19 day of February 1995

91-7203

91-6392

Joseph Marion Head Jr.
PIEDMONT CORRECTIONAL INSTITUTION
977 Camp Road
Salisbury, NC 28145

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

October 25, 1991

TO: Joseph Marion Head Jr.

NOTICE OF JUDGMENT

Judgment was entered this date in Case Number(s): 91-7203

The Court's opinion is enclosed.

PETITION FOR REHEARING (FRAP 40)
SUGGESTION FOR REHEARING IN BANC (FRAP 35)

Filing Time A petition must be received in the Clerk's Office within 14 days after the judgment date set forth above, to be timely. If a suggestion for rehearing in banc is to be made, it must be filed at the same time and in the same document as the petition for rehearing.

Petitions received in the clerk's office after the 14th day will be denied as untimely. Motions for extension of time to file petition for rehearing, or for leave to file petition for rehearing out of time will be denied except the following: (1) applications pursuant to I.O.P. 40.2 occasioned by the need for review by the Solicitor General; (2) affidavits that the delay resulted from death or serious illness of counsel or a family member (or of a party or family member in pro se cases); or (3) an extraordinary circumstance wholly beyond the control of counsel or of a party proceeding without counsel. Petitions from prisoners are deemed filed when delivered to prison authorities.

You are reminded that a timely filed petition for rehearing will stay the mandate and toll the running of the time for filing a petition for a writ of certiorari, but a suggestion for rehearing in banc, filed without a petition for rehearing will accomplish neither of these.

Purpose A petition should only be made to direct the Court's attention to one or more of the following situations:

1. A material fact or law overlooked in the decision.
2. A change in the law which occurred after the case was submitted and which was overlooked by the panel.
3. The opinion is in conflict with another decision of the Court or of another court of appeals and the conflict is not addressed in the opinion.

Statement of Counsel A petition shall contain an introduction stating that, in counsel's judgment, one or more of the situations exist as described in the above "Purpose" section. The points to be raised shall be succinctly listed in the statement. Lacking such a statement, the petition will be returned to counsel.

Form	The 15 page limit allowed by the Rule shall be observed. The Court requires 15 copies of the petition; however, a pro se party who is indigent may file the original only.

BILL OF COSTS (FRAP 39)

Filing Time	A party to whom costs are allowed, who desires taxation of costs, shall file a bill of costs within 14 days after judgment.

MANDATE (FRAP 41)

Issuance Time	The mandate is issued 21 days after judgment. A timely petition for rehearing will stay the issuance. If the petition is denied, the mandate will issue 7 days later. If a stay of mandate is sought, only the original of a motion need be filed.
Stay	A motion for stay of the issuance of the mandate shall not be granted simply upon request. Ordinarily the motion will be denied unless it would not be frivolous or filed merely for delay and would present a substantial question or otherwise set forth good or probable cause for a stay.

CRIMINAL JUSTICE ACT

CJA	Counsel appointed under the Criminal Justice Act must file their vouchers no later than 45 days after final disposition of the case If no petition for certiorari is filed, the 45 days runs from the date of judgment. If a petition for certiorari is filed, the 45 days runs from the date of filing the petition.

JOHN M. GREACEN
CLERK

Enclosure

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

FILED
August 21, 1991

No. 91-7203

In Re: Head
CA-91-133-SM

O R D E R

This appeal was docketed in this Court on 8/21/91 and at least one party is proceeding without counsel. Pursuant to Local Rule 34(b), this case shall be submitted on informal briefs.

1. The informal briefing form is attached. Parties Parties may, but need not, cite statutes and legal authority to support their contentions. Only the basic facts and issues need be set forth, as requested on the form. If a supporting memorandum is essential to address the issues adequately, it may be attached to the briefing form.

The Court will review the entire record on appeal for possible meritorious issues; it will not limit its review solely to the issues raised in the parties' briefs.

2. The six-digit docket number appearing on the first page of this order shall be placed prominently on every paper filed by any party to this appeal, as well as on all correspondence addressed to the Court.

3. Parties electing to submit informal briefs shall mail their briefs to the Court, with copies to all parties, NO LATER THAN September 11, 1991.

4. The original and one copy of the parties' briefs shall be mailed to the Court, with first class postage pre-paid and affixed, addressed as follows:

United States Court of Appeals
for the Fourth Circuit
United States Courthouse
10th and Main Streets
Richmond, VA 23219

5. Every document mailed to the Court by any party must bear a notation that a complete copy thereof was mailed to all other parties at the same time; the Court must receive the original and one copy of every such document. The notation must show the complete name and mailing address of the persons to whom the copies were sent and the date of mailing.

6. Extensions of briefing deadlines are not favored by the Court and are granted only for good cause stated in writing. Requests for extensions MUST BE RECEIVED BY THE COURT BEFORE THE EXPIRATION OF THE DEADLINE.

7. Transcript of trial proceedings WILL NOT be prepared at government expense except in those limited cases in which the Court concludes from the briefs, the claims of the parties, and the record that the appeal presents a substantial question that cannot be determined without a transcript.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
UNITED STATES COURTHOUSE
TENTH & MAIN STREETS
RICHMOND, VIRGINIA 23219

JOHN M. GREACEN
CLERK

TELEPHONE
(804) 771-2213
FTS 925-2213

August 21, 1991

CHANGE OF ADDRESS NOTIFICATION

Re: 91-7203 Head v.
CA-91-133-SH

If your address changes, it is your obligation to notify the clerk. If the address changes and you do not notify the clerk, we will not be responsible for your failure to receive documents from the court.

THE CLERK IS HEREBY NOTIFIED THAT MY ADDRESS SHOULD BE CHANGED TO:

NAME _____

NUMBER AND STREET _____

_____

CITY _____ STATE _____ ZIP CODE _____

TELEPHONE No. ____ - _____ - _____

PRISON _____ (if applicable)

PRISONER'S REGISTRATION No. _____ (if applicable)

EFFECTIVE _____ _____
(DATE) PRO SE SIGNATURE

Loc. R. 34(a) Oral Argument; pre-argument review and summary disposition of appeals; statement regarding the need for oral argument.

In the interest of docket control and to expedite the final disposition of pending cases, the chief judge may designate a panel or panels to review any pending case at any time before argument for disposition under this rule.

In reviewing pending cases before argument, the panel will utilize the minimum standards set forth in FRAP 34(a). If all of the judges of the panel to which a pending appeal has been referred conclude that oral argument is not to be allowed, they may make any appropriate disposition, without oral argument, including but not limited to, affirmance or reversal.

In furtherance of the disposition of pending cases under this rule, any party may include in his brief at the conclusion of the argument section a statement setting forth the reasons why, in his opinion oral argument should be heard.

Loc. R. 34(b) Informal Briefs

Whenever an application for a certificate of probable cause from the denial of a writ of habeas corpus or an appeal taken from the denial of a motion under 28 U.S.C. 2255, or any pro se appeal shall be filed, the Clerk shall notify the appellant that he may file within twenty-one days after receipt of such notice, an informal brief, describing the grounds upon which he claims he is entitled to relief and setting forth the merits of his appeal. Any such informal brief filed by any party shall be considered, together with the record and other relevant papers, by the panel to which the proceeding has been referred.

Parties proceeding pursuant to this section shall be provided copies of this local rule by the clerk.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

91-7203 Head v.
CA-91-133-SH

INFORMAL BRIEF

Directions: Answer the following questions about the appeal to the best of your ability. Use additional sheets of paper, if necessary. You need not limit your brief solely to this form but you should be certain that whatever you file answers the questions below. In any event, the court prefers short and direct statements.

1. Did the district court fail to consider important grounds for relief. If so, what grounds?

As apears of State and Federal Court Records of and Relating To 74CR2403 74CR2403A from Rutherford County North Carolina.

2. Did the district court incorrectly decide the facts? If so, what facts?

As Apears of State and Federal Court Records.

3. Do you think the district court applied the wrong law? If so, what law do you want applied?

The law which entitles me to relief and the law this Court deems should have been aplied.

4. Do you feel that there are any other reasons why the district court's judgment was wrong? If so, what?

(1) The lower Court Denies everything Head sends to the court except leave to proceed in forma pauperis, see all records of the lower court relating to Head from 1980 forward.
(2) No legal assistence appointed and no evidentry hearings.
(3) all reasons known by this court.

5. What action do you want the Court to take in this case?

(1) appropriate action to afford Head all relief entitled to him.
(2) appoint all legal assistence possiable to represent all matters relating hereto.
(3) Hear this appeal on all the records
(4) Order all state and Federal court records relating To Head ~~certified to this court by certain~~, etc..

6. If you think the court should hear oral argument in this case, why do you think so?

for all reasons known by this court.

Signed 8-23-91, Joseph Marion Head Junior
Date sent, 8-23,91
Signature
NOTARY NOT REQUIRED

IMPORTANT: A COPY OF THIS BRIEF AND ANY ATTACHMENTS MUST BE SENT TO ALL PARTIES IN THE CASE. PLEASE LIST BELOW THE NAMES AND ADDRESSES OF THE PARTIES WHO WERE SENT A COPY OF YOUR BRIEF, TOGETHER WITH THE DATES ON WHICH THEY WERE SENT.

Date all copies was sent is 8-23-91.
c.c. Attorney General of North Carolina
c.c. Origal and one copy 4th. Cir. Ct. of Appeals
c.c. Joseph Marion Head Junior.

Joseph Marion Head Jr.
PIEDMONT CORRECTIONAL CENTER
977 Camp Road
Salisbury, NC 28144

CCA-30 REV. 12/1/90

TRANSMITTAL SHEET
(Notice of Appellate Action)

X Notice of Filing ____ Cross Appeal ____ Interlocutory Appeal ____ Additional NOA ____ Amended NOA X Transmittal of Record ____ Transmittal of Certif. ____ Supplement to ROA ____ Supplemental Certif. ____ Update Item	UNITED STATES DISTRICT COURT for the WESTERN DISTRICT OF NC at SHELBY DIVISION Caption: IN RE: Joseph Marion Head, Jr.	District Court No.: SH-C-91-133 4CCA No.: Consolidated with No.: Case Manager: Record Requested By:

Part I
Notice of appeal is enclosed to all parties (except to appellant in civil cases); NOA, docket entries, dist. ct. order and CJA 20 (if applicable) are enclosed to 4CCA.

1. NOA filed: August 14, 1991

2. Amended NOA filed:

3. District Judge: Woodrow W. Jones

4. Fees
____ USA no fee required
$5 filing fee: ____ paid ____ unpaid
$100 docket fee: ____ paid ____ unpaid
Pauper status: X granted ____ denied ____ pending in district court
Reason ifp denied: ____ money ____ merit

5. Official Court Reporter(s): N/A

Contract Court Reporter:

Coordinator:

6. Transcript
____ ordered
____ not required
____ CJA pending
____ pur. order furn.
____ not ordered
X no in-court hearing
____ CJA furnished
X docket. stmt. furn.

7. Criminal/Prisoner Cases
____ Criminal ____ pre Guidelines
____ ____ post Guidelines
____ recalcitrant witness
____ on death row
X in custody
____ on bond
____ on probation

Defendant's Address:
977 Camp Rd.
Salisbury, NC 28144

Part II
ORIGINAL RECORD

Pleadings: Vols. 1
Transcript: Vols.
Exhibits: Vols.
Depositions: Vols.
Other: Vols.
Sealed: Vols.
No. of Boxes:

TRANSMITTAL OF RECORD TO COURT OF APPEALS
SUPPLEMENT TO RECORD-SUPPLEMENT # ____

Pleadings: Vols.
Transcript: Vols.
Exhibits: Vols.
Depositions: Vols.
Other: Vols.
Sealed: Vols.
No. of Boxes:

Signature of Clerk or Deputy: Elizabeth Jones
Phone: FTS# 672-0648
Date: August 15, 1991

RECEIVED
ASHEVILLE, N. C.
AUG 14 1991
CLERK, U.S. DISTRICT COURT
W. DIST. OF N.C.

In The United States District Court
For The Western District of North Carolina
Shelby Division
SH-C-91-133

FILED
AUG 14 1991
ASHEVILLE, N. C.
U. S. DISTRICT COURT
WESTERN DISTRICT OF N. C.

In Re:

Joseph Marion Head Junior } Notice of Appeal
} In Forma Pauperis

Joseph Marion Head Junior hereby gives notice of appeal to the Fourth Circuit Court of Appeals from the finial judgment and orders of the U.S.D.Ct, W.D.N.C., Sh. Div. entered in SH-C-91-133 on the 3rd. August 1991 filed 8-6-91 denying relief and summarily dismissing 26 paper writings. Father objects to same an exception to same hereby entered.

Legal Assistence Ask For

All legal assistence the Courts will order To represent all matters relating to this appeal is asked for pro se by Joseph Marion Head Junior.

Signed, Joseph Marion Head Junior, 8-12-91 same date written and sent to Court by mail.

977 Camp Road
Salisbury, N.C. 28144

(Consider This As Notarized)

District	Off.	Docket No. Yr.	Docket No. Number	OR	Filing Date Mo.	Filing Date Da.	Filing Date Yr.	J	Nature Suit	R 23	Judge	Mag.	Jury Dem.	ARB	MDL Docket	Docket Yr.	Docket Number
0419	4	91	00133	1	06	06	91	3	530		1905					91	00133

CAUSE: TITLE 28 SEC. 2254 - PRISONER PETITIONS - HABEAS CORPUS

SHELBY DIVISION

PLAINTIFFS **DEFENDANTS**

IN RE:
HEAD, JR., JOSEPH MARION

INDEX

INDEXED rej

ATTORNEYS

PRO SE:

~~1300 Western Blvd.~~
~~Raleigh, NC 27603~~

977 Camp Rd.
Salisbury, NC 28144

OFFICE OF ATTORNEY GENERAL
STATE OF NORTH CAROLINA
P. O. BOX 629
RALEIGH, NC 27602

☐ CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS

FILING FEES PAID

DATE	RECEIPT NUMBER	C.D. NUMBER

STATISTICAL REPORTS PROCESSED

Filing _____
Termination _____
Change _____

VOL. 1

08-06	1	**MEMORANDUM OF DECISION ORDERING** that the Clerk of Court is instructed to file the 26 paperwritings in forma pauperis under a single case number. By a separate judgment filed simultaneously herewith, the undersigned will summarily dismiss Head's 26 paperwritings as frivolous. (JONES) Copies mailed to Petitioner and Atty. General of NC. (rej)
08-06	2	Petitioner's (26) paperwritings. (rej)
08-06	3	**JUDGMENT ORDERED** that the relief soughtby petitioner in his 26 paperwritings is **DENIED**, and the action is hereby **SUMMARILY DISMISSED**. The Clerk of Cout is directe to send copies of the Memorandum of Decision and this Judgment to the petitioner and the Atty. General of NC. (JONES) Copies mailed to Petitioner and Atty. Genera of NC. (rej) **JS-6 ISSUED** ORDER AND JUDGMENT DOCKET XXXXVIII, NO. 120.
08-14	4	Petitioner's **NOTICE** of Appeal In Forma Pauperis. (rej)
08-15		RECORD ON APPEAL MAILED TO FOURTH CIRCUIT COURT OF APPEALS, RICHMOND, VA. (rej)

(3)

SUPREME COURT OF THE UNITED STATES

JOSEPH MARION HEAD, JR. *v.* LACY H. THORNBURG, ATTORNEY GENERAL OF NORTH CAROLINA

ON MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

No. 91-6392. Decided March 2, 1992

The motion of petitioner for leave to proceed *in forma pauperis* is denied pursuant to Rule 39.8. Petitioner is allowed until March 23, 1992 within which to pay the docketing fee required by Rule 38 and to submit a petition in compliance with Rule 33 of the Rules of this Court.

JUSTICE STEVENS, with whom JUSTICE BLACKMUN joins, dissenting.

Earlier this Term, the Court applied its new Rule 39.8[1] for the first time, denying *in forma pauperis* status to two indigent litigants—Vladimir Zatko and James Martin. *Zatko* v. *California*, 502 U. S. ___ (1991) *(per curiam)*. In explaining its action, the Court emphasized that Zatko and Martin were "unique." *Id.*, at ___ (slip op., at 4). What distinguished these petitioners, the Court explained, was not the frivolousness, but the frequency of their filings. Indeed, the Court found it "important to observe" that it had not applied Rule 39.8 to numerous other frivolous petitions. *Ibid.* The Court noted that these other petitions were denied "in the usual manner, underscoring our

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[1] This Court's Rule 39.8 provides:

"If satisfied that a petition for a writ of certiorari, jurisdictional statement, or petition for an extraordinary writ, as the case may be, is frivolous or malicious, the Court may deny a motion for leave to proceed *in forma pauperis*."

2 pp

commitment to hearing the claims, however meritless, of the poor." *Ibid.*

Zatko had filed 73 petitions in this Court over the past 10 years; Martin had filed more than 45. *Id.*, at ___ (slip op., at 3). In invoking Rule 39.8 today, the Court denies leave to proceed *in forma pauperis* to petitioner Joseph Head. Head has previously filed *one* petition in this Court.[2]

Today's action thus represents an unexplained expansion of Rule 39.8 and an apparent rejection of the explanation for the action taken with respect to petitioners Zatko and Martin. I would grant leave to proceed *in forma pauperis*, deny the petition for writ of certiorari, and get on with the business of the Court.

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[2] See *Head* v. *Pinion*, 500 U. S. ___ (1991).